

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

There presently are four claims (1-4) pending in this application.

The Office Action of October 27, 2004 and the references cited therein have been considered. In response to the rejections to the claims, the Applicants provide the following comments. As demonstrated, however, each of the rejections is believed overcome, with the application being placed in condition for allowance. Accordingly, reconsideration and allowance of this application is respectfully requested. Claims 1-4 are now pending in this application.

On page 2, paragraph 3 of the Office Action, the Examiner has rejected claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by Garrabrant, et al (USPN: 5,610,595). The Examiner has identified various features of Garrabrant utilizing terminology of the present application in an attempt to show that Garrabrant anticipates that which is disclosed and claimed in the present application. Applicants respectfully traverse such characterization by the Examiner.

Garrabrant relates to a packet radio communication protocol that uses a sequence index indicating the sequence in which a message is composed at the source station and utilizing that sequence index for message integrity. (See col. 3, lines 17-18.) As best understood by the Applicants, Garrabrant marks each message transmitted with a sequence number field 92 (See Col. 9, l. 5-8).

In contrast to Garrabrant, the present application discloses and claims a method that marks a message only if it is the second time it is being transmitted. In other words, the first transmitted message is not marked, if that same message is transmitted a second time it is marked and it is the second marked message that is ignored by the receiver if it is recognized as the message as having been sent once before or if it interprets it as a new message. See paragraphs 12 and 17 of the substitute specification. In Garrabrant, since each message is sequentially indexed, it is an out-of-sequence message that is discarded or rejected by the receiver.

There is no teaching or suggestion in Garrabrant that the initial message is not marked upon the first transmission but is marked upon a second or subsequent transmission as disclosed and claimed in the present application. Garrabrant marks each message with a sequence number field 92.

On page 3, paragraphs 6, 7 and 8 of the Office Action, the Examiner utilizes the language of the present application's claims 2, 3 and 4 respectively, as the Examiner did with claim 1, to cite language in Garrabrant to anticipate that which is disclosed and claimed in the present application. As stated above, since each of claims 2, 3 and 4 of the present application also require the marking of the message upon at least a second transmission, Applicants' comments with respect to Garrabrant are also applicable to claims 2-4.

Accordingly, Applicants submit that Garrabrant does not anticipate that which is disclosed and claimed in the present application and respectfully request that the Examiner withdraw his rejection of claims 1-4 under 34 U.S.C. § 102(b).

The prior art made of record but not relied upon is being reviewed.

Applicants have attempted to comment to the extent necessary to distinguish the claims over the prior art, but with the intent of not limiting the scope of the invention protection afforded by the patent laws to these claims, any further than absolutely necessary. It is respectfully submitted that each outstanding rejection has now been overcome and that each claim is in condition for allowance. Reconsideration is respectfully requested.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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